Fast-track courts and video cameras as drinking-driving countermeasures

Birgitta Pavic, Gina Stoduto, Robert E. Mann, Lise Anglin and Evelyn Vingilis
Addiction Research Foundation, 33 Russell St., Toronto, Canada M5S 2S1

A large portion of the economic costs resulting from drinking-driving occur in the courts, where in many jurisdictions drinking-driving offences constitute one of the largest sources of cases. Court backlog is a major concern in Ontario, and drinking-driving cases are considered to be a major contributor to this backlog. In an effort to reduce this and related problems, two pilot projects were initiated in the province, the ‘fast-track’ court and the use of video cameras in police cruisers and police breath-test rooms.

In 1992, the Ministry of the Attorney General designated that, on a pilot basis, the provincial court in a major municipality of the province would operate as a ‘fast-track’ (FT) court. The FT court was designated specifically for ‘simple’ drinking-driving cases that were not complicated by accident, injuries, fatalities, or the involvement of other parties. Based on these criteria, cases were «flagged» and sent for trial to the FT court. The intention was to speed the processing of impaired driving cases and reduce court backlog by reducing the time between a drinking-driving (DD) charge, the initial appearance in court, and the final disposition of the case. Other investigations of the impact of drinking-driving initiatives on court processes have been reported (Ross, 1982), but we are unaware of any previous evaluations of dedicated courts for drinking-driving cases.

The second pilot project was the introduction in another major municipality of video cameras in selected police cruisers in 1993 and in breath test rooms (BTRs) in 1994. The purpose was to provide additional evidence in impaired driving cases in order to increase guilty pleas and reduce court time. Evidence is crucial to the complex process designed to apprehend and convict drinking drivers. The introduction of the per se laws simplified this task and resulted in a relatively high proportion of guilty pleas in drinking-driving cases. However, Vingilis et al. (1990), in a survey of Ontario crown attorneys, reported that the single greatest problem cited by Crowns in drinking-driving cases was technical and evidentiary problems. The use of video cameras (VC's) in police cruisers and BTRs for law enforcement purposes in general and for impaired driving cases in particular began in the United States. Anecdotal reports suggest VCs have been well received by officers and are perceived to be valuable in providing evidence of impairment (Dutkowski, 1993). However, no systematic evaluations of their actual or perceived utility are available.
It often seems to be the perception of the usefulness or value of a new measure, rather than evidence of effectiveness, which determines the extent to which that measure will be adopted. In the area of drinking-driving countermeasures, this often seems to be the case. For example, high-intensity deterrence and rehabilitative programs have been introduced in jurisdictions when strong evidence supporting their use was not available (e.g., Mann et al., 1983; Vingilis and Salutin, 1980). Fortunately, evaluations of deterrence and rehabilitative programs reveal positive effects (e.g., Homel, 1990; Mann et al., 1994; Wells-Parker et al., 1995). Currently, many countermeasures are being considered and introduced based on perception of their value rather than empirical demonstration of effects on traffic safety (e.g., ignition interlocks, vehicle restraint).

If factors other than demonstrated affectiveness are important determinants of the introduction of drinking-driving countermeasures, it is important to attempt to understand what these factors are and how they operate. The major aim of this study is to assess perceptions of the utility of the FT court and video procedures among legal and justice personnel involved with these initiatives (i.e., judges, defence attorneys, crown attorneys and police), and to identify factors which may give rise to those perceptions. Because of the small scale of implementation of these measures, a qualitative approach using semi-structured interviews was employed. We are particularly interested in exploring whether perceptions of usefulness will be strongly determined by the perceived operational effects of the measure, e.g., the impact of the measure on workload and effect on aggressive behaviour during procedures.

**METHOD**

For both initiatives, initial contacts were made with senior administrative personnel who played a role in the inception of the two pilot projects. A small number of crown attorneys, judges, defence attorneys and police officers were identified as potential participants, based on their experience with either the FT court or with cases involving videotape procedures. A snowball technique was employed in the interviews to identify further potential participants.

All potential participants were approached either by telephone or in person and given a brief description of the research. Those who agreed to participate did so on a voluntary and anonymous basis. The sample for the FT court project consisted of 8 Crown Attorneys (CAs), 8 Judges, 2 Police Officers, and 2 Defence Attorneys (DAs). The sample for the VC project consisted of 8 CAs, 8 Judges, 10 Police Officers and 4 DAs. The semi-structured interviews developed for this study required approximately an hour to complete. The questionnaires were modified slightly to reflect the position of the individual being interviewed (i.e., judge, CA, DA and police officer) and to correspond with the program.
initiative in consideration (i.e., FT courts or video cameras). Information was elicited in the following areas: demographic data, experience in current position, perceptions of the role of alcohol and drugs in cases or offenses dealt with, experience with the initiative, specific problems and benefits of the initiative, and personal evaluations of the usefulness and effectiveness of the initiative.

RESULTS

FT Courts:
The extent to which the FT court achieved its intentions of reducing court backlog is unclear. Court statistics covering the period before and during the period that the court was in operation suggested a decrease in the time to clear all cases. No change in court backlog for drinking-driving cases was perceived by 55% of those we interviewed, while 36% felt that there was at least some decrease in backlog while the FT court was in operation. When asked about conviction rates, 30% of those interviewed indicated that 85% or more of the DD cases in the FT Court were convicted, while 23.1% of those interviewed felt that 85% or more of the DD cases in regular courts resulted in convictions.

Reactions to the FT Court varied depending on whom we spoke with. All participants were asked how the various groups involved perceived the FT Court overall. More than 60% felt that the Police were very positive to the FT. A court designated for DWI cases allowed for some officers to have many of their cases dealt with on the same day, in the same court room. About 40% of the interviewees perceived CAs as responding positively to the FT court. Some crowns felt that a court dedicated to drinking-driving cases allowed for expertise in the area to develop. According to one CA, «In terms of our workload, if we were in there, we certainly knew what we were doing . . . it became like rote». About 27% of participants felt that CA’s had a negative reaction. Another CA explained that «DWI cases are very technical, very intense work, specialized witnesses and lawyers, if you have a full court, all day, of DWI, it’s very exhausting».

Responses were equivocal where DAs’ reactions were considered: 26.7% of respondents said DAs’ responses were positive and 26.7% said their response was negative. A common concern cited by DAs was «getting clients to pay upfront if the case is in a short period». Some DAs reasoned that «most accused would rather have it down the line (i.e., delayed), if have choice of licence suspension in 2 weeks or 2 years, and fees to lawyers in 2 weeks or 2 years.» As one DA put it, with the FT court «Judgement day is sooner».

Nearly 50% of those interviewed gave no opinion where the Judges were concerned, while the rest were divided between describing the Judges as responding either positively or negatively.
Judges’ responses were similarly mixed, with some liking it and some not. One Judge commented that, «DWI (is) not looked on as a choice assignment». Some Judges felt that, «efficiency compromises justice in many cases». One Judge expressed that his «priority is fairness to all, . . . don’t want to rush, want time to consider (the) matter fairly». More than 60% of respondents felt the accused had no opinion on the FT court. Many reasoned that it would be difficult to judge how the accused felt, as most probably had no understanding of there actually being a FT system in place. Over half of the respondents felt that the general public had no opinion on the FT court operation, for similar reasoning as the accused. About 40% felt that the public would respond positively to the system or to any initiative brought in to reduce the court backlog.

The response to whether we should have more FT Courts was split, with about 46% in favour of the suggestion and 40% against it.

In-Cruiser & BTR Videos

Most of those interviewed (60%) had never used the in-cruiser videos for DWI case / offence purposes. Of those who had experience with these videos, 70% found them to be extremely useful, while all others who responded considered them to be at least somewhat useful. About 61% of all those interviewed recommended that other police forces should adopt the use of in-cruiser video equipment, «as long as they function properly, get equipment suitable to be used in a police car, needs to be rugged, can take a lot of abuse, easy to handle, and must handle extreme temperatures». Officers reported that in the cold, the equipment tended to cease working properly. One officer commented that, «they’re not reliable, often start up on their own».

All the participants (100%) reported having some experience with videos from the Breath-Test Room. The large majority of respondents (80%) found the BTR videos to be at least somewhat useful, with 70% finding them to be extremely useful. In the words of one Judge, «they are less open to dispute, evidence is clear on tape, doesn’t change like a person’s recall», and a CA commented «(it) takes away subjective bias . . . narrows the issues at trial because it’s such good evidence». About 92% of Judges, lawyers, and police officers interviewed gave a positive recommendation for other police forces to adopt the use of BTR Videos.

When asked if videos (both in-cruiser and BTR) are used in court for all applicable cases, 22% of the respondents said yes. Judges commented that videos are shown «at the discretion of the Crown or Defence», or «when there’s a difference of opinion as to what happened». About 67% of respondents said that videos made their work easier while 24% felt that videos made their work more difficult. Several respondents commented that the video, if shown, took up more court time. A large majority (86%) felt that the use of videos increased the proportion of arrestees who plead guilty, as expressed by some DAs: «trials take more time, but it evens out
as more people will plead guilty». Additionally, 61% felt that the presence of in-cruiser or BTR VCs had an overall calming effect on problems caused by unruly or assaultive behaviour, as indicated in the following common response: «Promotes professionalism in officer and good behaviour in arrestee».

DISCUSSION

In interpreting the results of this investigation, it is important to keep its exploratory and qualitative nature in mind. However, the results do provide a valuable picture of the experience of justice system officials in working with FT courts and video technology in police cars and breath-test rooms. Overall, there appeared to be at least some perceptions that these measures had achieved their goals of reducing court backlog and increasing guilty pleas, but important variability was noted. After the FT court had been in operation for several months, non-DD cases began to be processed in the court. The reason provided for this was efficiency: if the DD cases had all been dealt with and court time was still available, other cases were introduced. Thus, a Drinking-Driving designated court was slowly eliminated. For the video cameras, most respondents noted an increase in the percentage of guilty pleas, which would reduce backlog. However, in those cases where videos were used, an increase in court time due to the playing of the video information was noted. We should note, however, that results from a carefully controlled evaluation are necessary before an assessment of the actual (rather than perceived) impact of these measures on court backlog can be made.

We also note with interest the variability in the perceived usefulness of the measures. In general, it would seem that the FT court, although rated positively by many, was perceived to be least useful by respondents. One major reason for this appeared to be the lack of variety experienced by the individuals assigned to this court. Although some benefits of the court were noted (e.g., development of expertise in drinking-driving cases), this lack of variety seemed to contribute to a negative experience with the court. The in-cruiser video cameras also received many positive ratings, but operational concerns were noted such as equipment difficulties in cold weather. The breath-test room videos appeared to receive the most consistently positive ratings. These observations lead to the prediction that the breath-test room videos are most likely to be widely implemented, based on our hypothesis that perceived utility is a major determinant of the introduction of drinking-driving countermeasures on a large scale.
REFERENCES


